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10/539,010

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EXAMINER

IMAS, VLADIMIR

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HIROAKI YAMADA, NOBUTAKA KANEKO
HIROAKI KANO, and KATSUJI SUZUURA

Appeal 2009-002401
Application 10/539,010¹
Technology Center 2800

Decided: August 13, 2009

Before MARC S. HOFF, CARLA M. KRIVAK, and THOMAS S. HAHN,
Administrative Patent Judges.

HOFF, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1-22. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

¹ The real party in interest is Yazaki Corporation.

Appellants' invention relates to a cassette relay block attachment structure in which a relay block in an automobile can be attached into an electric connection box in cassette form (Spec. 1). A lock portion is provided inward of an outermost wall surface of the cassette relay block. Useless space for the lock portion is thus eliminated, to enable size reduction (Spec. 3).

Claim 1 is exemplary of the claims on appeal:

1. A cassette relay block attachment structure comprising:
a cassette relay block having a lock portion disposed inwardly of an outermost wall surface of the cassette relay block, the cassette relay block being inserted into a space surrounded by peripheral walls on an attaching member, said cassette relay block being fixed by the lock portion and a locked portion located on the peripheral wall side of the attaching member.

The Examiner relies upon the following prior art in rejecting the claims on appeal:

Akiyama	US 6,022,247	Feb. 8, 2000
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Claims 1-22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Akiyama.

Throughout this decision, we make reference to the Appeal Brief ("App. Br.," filed October 16, 2007), the Reply Brief ("Reply Br.," filed April 24, 2008), and the Examiner's Answer ("Ans.," mailed February 26, 2008) for their respective details.

ISSUES

Appellants argue that Akiyama does not teach a cassette relay block having a lock portion disposed inwardly of an outermost wall surface of the block, because the lock claws of Akiyama are disposed at positions on the respective outside portions of the cassette blocks, and must be considered to

be beyond the walls of the cassette blocks (Reply Br. 5). Appellants further argue that Akiyama does not teach that the lock portion and locked portion are housed in the projected area of a relay attached to the cassette relay block (Reply Br. 6), nor that the lock portion is arranged in a range surrounded by crossing outer wall surfaces of the terminal housing parts (Reply Br. 6). The Examiner finds that lock claw 6 includes engaging wall 6a, which does form an outermost wall surface of the cassette relay block, with lock portion (securing lance 6b) disposed inwardly thereof (Ans. 5).

The contentions of Appellants and the Examiner thus present us with the following three issues:

1. Have Appellants shown that the Examiner erred in finding that Akiyama teaches a cassette relay block having a lock portion disposed inwardly of an outermost wall surface of the cassette relay block?
2. Have Appellants shown that the Examiner erred in finding that Akiyama teaches a lock portion and a locked portion housed in the projected area of a relay attached to said cassette relay block?
3. Have Appellants shown that the Examiner erred in finding that Akiyama teaches that the lock portion is arranged in a range surrounded by crossing outer wall surfaces of the terminal housing parts?

FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

The Invention

1. According to Appellants, the invention concerns a cassette relay block attachment structure in which a relay block in an automobile can be attached into an electric connection box in cassette form (Spec. 1). A lock

portion is provided inward of an outermost wall surface of the cassette relay block (Spec. 3).

Akiyama

2. Akiyama Figure 5 shows securing lance 6b (the “lock portion”) disposed fully within the outline of engaging wall 6a.

3. Akiyama Figure 6 further shows engaging wall 6a, attached to cassette relay block 3 (or 4), serving as the outermost wall surface of the cassette relay block, with securing lance 6b being disposed inwardly of that outermost wall surface.

4. The lock portions of Akiyama are engaged with inner peripheral walls 2a of Akiyama’s block main body 2 (*see* Fig. 1).

Dictionary definition of “outermost”

5. “Outermost” is defined as “farthest out; remotest from the interior or center.” outermost. Dictionary.com. *Dictionary.com Unabridged* (v 1.1). Random House, Inc.

<http://dictionary.reference.com/browse/outermost> (accessed: August 10, 2009).

PRINCIPLES OF LAW

“A rejection for anticipation under section 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference.” *See In re Buszard*, 504 F.3d 1364, 1366 (Fed. Cir. 2007) (quoting *In re Paulsen*, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994)).

Anticipation of a claim requires a finding that the claim at issue reads on a prior art reference. *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1346 (Fed. Cir. 1999) (quoting *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 781 (Fed. Cir. 1985)).

Under the doctrine of inherency, if a claimed element is not expressly disclosed in a prior art reference, the reference nevertheless anticipates the claim if the missing element is necessarily present in the reference, and it would be so recognized by skilled artisans. *Rosco, Inc. v. Mirror Lite Co.*, 304 F.3d 1373, 1380 (Fed. Cir. 2002) (citations and internal quotation marks omitted). To anticipate the claim, the missing element must be *necessarily present* in the prior art—not merely probably or possibly present. *Id.*

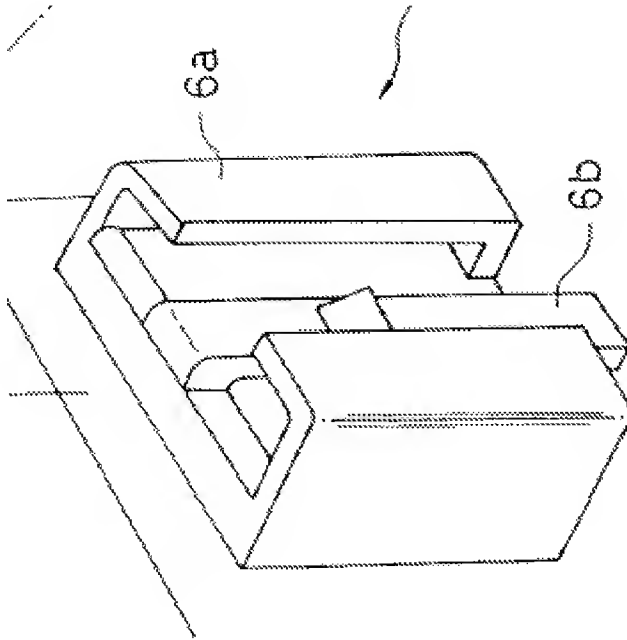
ANALYSIS

CLAIMS 1 AND 4-22

We select claim 1 as representative of this group of claims, pursuant to our authority under 37 C.F.R. § 41.37(c)(1)(vii).

Appellants argue that Akiyama does not anticipate the claimed invention because Akiyama does not teach a lock portion disposed inwardly of an outermost wall surface of the cassette relay block (App. Br. 10). In Appellants' view, Akiyama teaches cassette blocks having lock claws 6 and 11 disposed as projections outside the outermost wall surface of the main body of the cassette blocks (App. Br. 10).

We are not persuaded by Appellants' reading of Akiyama. As noted by the Examiner (Ans. 5), Akiyama Figs. 5 and 6 show detailed views of the full structure of lock claw 6.



Akiyama Fig. 5, in pertinent part, illustrating lock claw 6

Figure 5 shows securing lance 6b (the “lock portion”) disposed fully within the outline of engaging wall 6a (FF 2).

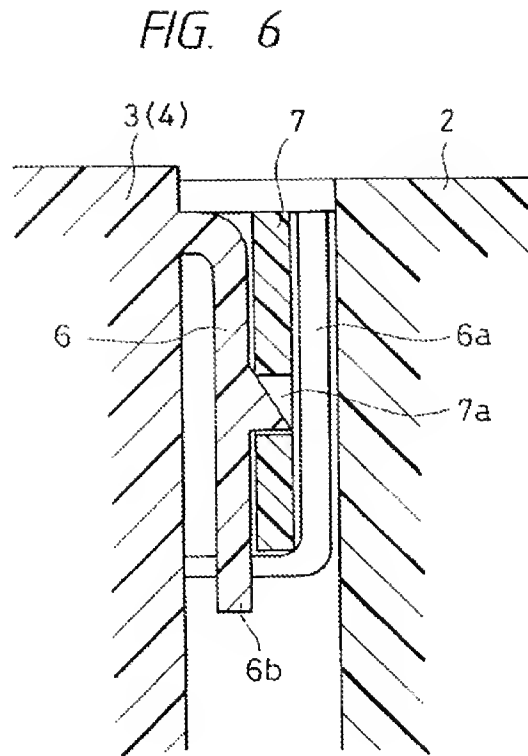


Fig. 6 of Akiyama, illustrating side view of lock claw structure

Figure 6 further shows engaging wall 6a, attached to cassette relay block 3 (or 4), serving as the outermost wall surface of the cassette relay block, with securing lance 6b being disposed inwardly of that outermost wall surface (FF 3).

Appellants further argue that Akiyama discloses that its lock claws are at “given positions on the respective outside portions of the cassette blocks” (col. 5, ll. 9-12), and that because “outside” is defined as “a place or region beyond an enclosure or boundary,” Akiyama considers the lock claws to be beyond the walls of the cassette blocks, rather than part of them (Reply Br. 5). We are not persuaded of Examiner error, because the pertinent definition is that of *Appellants’* term “outermost,” used in claim 1. “Outermost” is

defined as “farthest out; remotest from the interior or center” (FF 5). With respect to each of Akiyama’s cassette blocks 3 or 4, we find that engaging wall 6a is the *outermost* wall surface of the block, being farthest out from the center of each block. We thus find that Akiyama teaches every limitation of representative claim 1.

Because Appellants have not shown error in the Examiner’s rejection of representative claim 1, we will sustain the rejection of claims 1 and 4-22 under 35 U.S.C. § 102(b) as anticipated by Akiyama.

CLAIM 2

The Examiner finds that Akiyama discloses that the lock portion and locked portion are housed in the projected area of a relay attached to the cassette relay block (Ans. 4), but does not cite to any portion of Akiyama teaching this limitation.

We regard the Examiner’s response that “once relay block 4 is attached to cavity 2a, the relay (not shown) can be inserted to the relay block and the body of relay block will have projected area larger than cavity and will house the lock portion 7 and locked portion 6” (Ans. 5-6), as amounting to unsupported speculation that the unshown relay would inherently have a projected area larger than the lock portion and locked portion. Without evidence that the lock portion and locked portion of Akiyama would necessarily be housed in the projected area of the relay recited in claim 2, it is incorrect to say that the claimed relationship is necessarily present in Akiyama. Thus, we find that Akiyama does not teach every element recited in claim 2.

We find error in and will not sustain the Examiner's rejection of claim 2 under 35 U.S.C. § 102(b) as anticipated by Akiyama.

CLAIM 3

The Examiner finds that Akiyama discloses the terminal housing parts (not labeled) of the cassette relay block are arranged crosswise, and the lock portion is arranged in a range surrounded by crossing outer wall surfaces of the terminal housing parts (Ans. 4), providing no citation to any portion of Akiyama teaching these features. In the Response to Argument section of the Answer, the Examiner refers generally to Figures 1, 2, and 5 (Ans. 6).

We disagree with the Examiner's finding. The positioning of Akiyama's lock claws 6 means that the lock portions of Akiyama are engaged with *inner* peripheral walls 2a of Akiyama's block main body 2 (FF 4). The lock portions, therefore, cannot be arranged in a range surrounded by outer wall surfaces, let alone crossing outer wall surfaces of terminal housing parts. Akiyama thus fails to teach every element of claim 3.

We find error in the Examiner's rejection of claim 3 under § 102(b) as anticipated by Akiyama, and we will not sustain the rejection.

CONCLUSIONS OF LAW

1. Appellants have not shown that the Examiner erred in finding that Akiyama teaches a cassette relay block having a lock portion disposed inwardly of an outermost wall surface of the cassette relay block.

2. Appellants have shown that the Examiner erred in finding that Akiyama teaches a lock portion and a locked portion housed in the projected area of a relay attached to said cassette relay block.

3. Appellants have shown that the Examiner erred in finding that Akiyama teaches that the lock portion is arranged in a range surrounded by crossing outer wall surfaces of the terminal housing parts.

ORDER

The Examiner's rejection of claims 1 and 4-22 is affirmed. The Examiner's rejection of claims 2 and 3 is reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

ELD

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